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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/897,499	07/03/2001	Yasuo Iimori	06753.0455	2085

22852 7590 08/11/2004

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EXAMINER

THOMSON, WILLIAM D

ART UNIT	PAPER NUMBER
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2123

DATE MAILED: 08/11/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/897,499

Applicant(s)

IIMORI, YASUO

Examiner

William D. Thomson

Art Unit

2123

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on 03 July 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1 and 2 is/are allowed.
- 6) ☒ Claim(s) 3-6 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- 1) ☒ Certified copies of the priority documents have been received.
 - 2) ☐ Certified copies of the priority documents have been received in Application No. _____.
 - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

1. Claims 1-6 have been presented for examination.
2. Claims 1 and 2 have been allowed and claims 3-6 have been rejected.

Priority

3. Acknowledgment is made of applicant's claim for foreign priority under 35 U.S.C. 119(a)-(d).

Claim Rejections - 35 U.S.C. § 112

The following is a quotation of the second paragraph of 35 U.S.C. § 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 3 and 4 are generally narrative and indefinite, failing to conform with current U.S. practice. They appear to be a literal translation into English from a foreign document and are replete with grammatical and idiomatic errors. Examples from the language of claim 3 are "A recording medium recoding a simulation program", and "a judging processing for judging". Claim 4 inherits this defect.

Claim Rejections - 35 U.S.C. § 101

35 U.S.C. § 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

5. Claims 5 and 6 are rejected under 35 U.S.C. §101 because the claimed invention is directed to non-statutory subject matter. Specifically, quoting from M.P.E.P. 2105

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"since a computer program is merely a set of instructions *capable of being executed by a computer*, the computer program itself is not a process and Office personnel should treat a claim for a computer program, without the computer-readable medium needed to realize the computer program's functionality, as nonstatutory functional descriptive material. When a computer program is claimed in a process where the *computer is executing the computer program's instructions*, Office personnel should treat the claim as a process claim." [emphasis added].

Claims 5 and 6 are rejected under 35 U.S.C. § 101 because **the claims recite a computer program product, without execution**. It should be noted that code (i.e., a computer software program) does not do anything per se. Instead, it is the code stored on a computer that, *when executed*, instructs the computer to perform various functions. In the instant case, appropriate amendments to claims 5 and 6 could make the claims statutory.

Allowable Subject Matter

6. Claims 1-2 are allowed. Specifically the prior art of record does not expressly teach or render obvious the limitations specific to a simulator or simulation system that includes characteristics data base inclusive of "current-prearcing time characteristics" and "current-smoke time characteristics" with the "judging unit for judging whether each protecting part on the test object circuit is fused and whether each wiring of the assigned path smokes based upon the short-circuit current value calculated", in the context of the entire claimed invention as recited in claim 1. Claim 2 is allowed since it depends on an allowed independent claim. Though the prior art teaches simulation of

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electric or electrical wiring systems to include short circuit, over-current, over-voltage and fused connections and wiring; the specific teachings of a characteristics data base with the current-prearcing time characteristics and current-smoke time characteristics with calculations of current and short-circuit current with a judging unit that performed the recited operations inclusive of the power supply and paths within the context of the claims was not uncovered. Examiner did not uncover evidence that would provide a prima facie case of obviousness, therefore no motivation to combine the prior art teachings was found.

7. Claims 3-4 would be allowable if rewritten or amended to overcome the rejection under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action.

8. Claims 5-6 would be allowable if rewritten or amended, as suggested herein, to overcome the rejection under 35 U.S.C. § 101, set forth in this Office action.

Conclusion

9. The prior art made of record on the P.T.O. 892 has not been relied upon and is considered pertinent to applicant's disclosure. Careful consideration of the cited art is required prior to responding this Office Action, see 37 C.F.R. 1.111 (c).

CONTACT INFORMATION

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to William D. Thomson whose telephone number is 703-305-0022. The examiner can normally be reached on 8:30-3:30 Tuesday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kevin Teska can be reached on 703-305-9704. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read 'W. Thomson', is positioned above the printed name.

William Thomson
A.U. 2123
Primary Examiner
August 1, 2004